May 22, 1998

Spending in the "Commerce-2" Tobacco Bill Substitute

Spending Now Linked Directly to Revenues

As in its revenue provisions, the spending programs in S. 1415 have been significantly altered by Commerce-2. First, all spending is done "on-budget." Second, all spending will flow to a single trust fund, the National Tobacco Trust Fund (NTTF), rather than the six previously included. Third, some programs have been changed from direct spending to appropriated spending. According to CBO, spending is roughly split 50-50 between direct and discretionary spending. Fourth, the discretionary spending is expressly exempted from the discretionary spending caps that were extended in last year's budget agreement — the effect of which will be to raise overall spending in this category.

In addition, because the revenues flowing into the trust fund are now estimated to be less than previously stipulated (see May 22 RPC paper, *Revenue Effects of "Commerce-2"*), the <u>potential</u> spending that could be funded from Commerce-2 is less. Also, because Commerce-2 now apportions all its revenues to various programs — including any excess revenue to Medicare's Part A trust fund — the full amount raised will be spent. According to RPC's estimation, Commerce-2 would raise $514.2 billion over 25 years. If this is spent, as the bill apparently stipulates and as CBO assumes in its 10-year estimate, spending in Commerce-2 would be $100 billion larger over the 25-year period than RPC previously estimated [see May 8 RPC paper, *Estimating the Spending in S. 1415*, which was estimated by tabulating all the delineated spending programs (however this method necessarily had to leave out programs for which funding was not stipulated)].

Finally, Commerce-2 will impose private sector mandates — especially on those associated with the tobacco industry. In addition, it would do so on states as well — primarily in the area of tobacco litigation.

This analysis of the spending in Commerce-2 makes use of the initial Congressional Budget Office (CBO) estimate of May 21, 1998.

Overall Spending Estimates

- According to CBO (using JCT estimates), Commerce-2 would raise $65 billion in net federal revenues over five years, and $152 billion in net federal revenues over ten years. RPC estimates (based on extrapolating JCT figures — see May 22 RPC update, *Revenue Effects of "Commerce-2,"*), that the bill would raise $514.2 billion in net federal revenues over 25 years.

- CBO assumes that all the estimated revenue will be spent: $65 billion over the first five years and $152 billion over the first ten years. Following CBO's assumption, RPC estimates that the full $514.2 billion will be spent over the 25-year period.

- CBO estimates that this spending will be apportioned between direct and discretionary spending as follows: $42 billion in direct and $23 billion in discretionary over the first five years, and $89 billion in direct and $64 billion in discretionary over the first ten years. Following CBO's assumption of a 50-50 split between these two categories during 2007 and 2008, the overall split would be $270 billion in direct and $245 billion in discretionary spending over the 25-year period.

Spending Allocations

Commerce-2's spending is handled through one trust fund, the NTTF, that is allocated through accounts (Sec. 451, pp. 192-199) as follows:

- **State Litigation Settlement Account:** 40 percent of annual NTTF payments — direct spending. Commerce-2 stipulates that the states will receive $196.5 billion overall and contains adjustment formulas to help ensure this sum is met. The distribution formula will be determined by Treasury, in consultation with organization representing states.

- **Farmers Assistance Allocation Account:** 16 percent of annual NTTF payments through 2008 and 4 percent thereafter — direct spending. Commerce-2 stipulates that this account will receive $28.5 billion overall.

- **Public Health Allocation Account:** 22 percent of annual NTTF payments plus all youth penalties — discretionary spending. These funds are apportioned as follows:
  - Not less than 25 percent or more than 35 percent for smoking cessation;
  - Not less than 3 percent or more than 7 percent for the Indian Health Service (smoking cessation and prevention programs and other purposes);
  - Not less than 50 percent or more than 65 percent for — counter-advertising, smoking prevention, public surveys, and international activities;
  - Not less than 17.5 percent or more than 22.5 percent for FDA, state retail licensing activities, and anti-smuggling activities.

- **Health and Health-Related Research Allocation Account:** 22 percent of annual NTTF payments — discretionary spending. These funds are appropriated as follows:
  - $750,000 for a FY 1999 study;
  - Not less than 75 percent or more than 80 percent for National Institutes of Health (NIH)
  - Not less than 12 percent or more than 18 percent for Centers for Disease Control (CDC).
  - One percent for National Science Foundation (NSF);
  - $750 million for cancer clinical trials for the first three fiscal years.

- **Medicare Preservation Account:** If actual revenues are higher than those estimated by the bill, the excess shall be deposited in this account. Additionally, beginning in the eleventh year, 12 percent of the net NTTF revenues will be deposited here. All monies to this account will be transferred to the Medicare Part A trust fund.

In addition to these spending accounts, S. 1415 also provides for additional direct and discretionary spending that would be funded out of General Fund revenues — not the NTTF.

Spending Stipulations

S. 1415 stipulates that the above accounts spend the money as follows:

Direct Spending

- **State Litigation Settlement Account:** Not more than 50 percent of the state funds may be used at the discretion of the states. The remaining 50 percent are to be used to carry out certain specified activities including: additional services under the State Children's Health Insurance Program (not over 6 percent) — provisions are made to expand eligibility; the maternal and child health block grant; child care; federally funded child welfare and abuse programs; programs under the Substance Abuse and Mental Health Services Administration; Safe and Drug-Free Schools Program; and teacher training within the Eisenhower Professional Development program. This stipulated spending must be in addition to — not a replacement of — existing state spending for these stipulated programs.

- **Farmers Assistance Allocation Account:** Commerce-2 currently contains two conflicting provisions for the disbursement of farmer assistance funds (see May 19 RPC paper, *A Look at the Lugar Tobacco Buyout Proposal)*; however, CBO assumes that the full amounts are allocated regardless of which set of spending provisions are used.

- Money will be provided to compensate owners of cigarette vending machines at an amount equal to their fair market value prior to the prohibition of vending machine sales.

- Several programs would increase direct spending outside the NTTF's spending: Medicare would fund a demonstration cancer treatment program; and Medicaid would cover tobacco cessation treatment, hospital stays due to mastectomies, and would be prevented from recovering any payments to states as overpayments (which otherwise would likely have occurred — the effect being to maintain spending at a higher level than otherwise).

Discretionary Spending

- Public Health Allocation Account and Health and Health-Related Research Allocation Accounts would fund smoking cessation, smoking prevention and education, counter-advertising, and research by (or funded by) NIH, CDC and NSF.

- FDA, NIH, and CDC spending is furthermore protected by a maintenance of spending provision: "No expenditures shall be made. . . during any fiscal year in which the annual amount appropriated for [the Food and Drug Administration] is less than the amount so far appropriated for the prior fiscal year."

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